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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/596,222	06/05/2006	Linta Costel	COSL0101PUSA	3734
22045	7590	05/12/2009	EXAMINER	
BROOKS KUSHMAN P.C. 1000 TOWN CENTER TWENTY-SECOND FLOOR SOUTHFIELD, MI 48075			STEPHENS III, JOSE S	
			ART UNIT	PAPER NUMBER
			3728	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/596,222	Applicant(s) COSTEL, LINTA
	Examiner JOSE S. STEPHENS III	Art Unit 3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 January 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11, 14, 15, 18 and 19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11, 14, 15, 18 and 19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office Action acknowledges the applicant's amendment filed 15 January 2009. Claims 1-11, 14, 15, 18, and 19 are pending in the application; claims 12, 13, 16, and 17 have been cancelled; and claim 19 is new.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. Claims 1-11, 14, 15, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over McEwan (US Patent 5,906,274).

With respect to claims 1-3, figures 1-4 of McEwan teach a holder assembly for a data carrier comprising a cover 11 and a holder 10, with an insert-space (see figure 1) defined in between the cover and the holder and a back (side opposite surface 17) which connects the cover with the holder, and where the holder includes a tight thread

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20 connected to at least one hook (portion underneath ledge 12a that contacts groove 13) releasably engagable with the cover and a button 12 that rests upon the thread which when depressed releases the hook.

McEwan discloses the claimed invention except for at least one part of the back makes an angle between 10° and 80° or 20° and 70° with the holder, and the back has a cross-section that is at least partially curved . It would have been an obvious matter of design choice to make the different portions of the back of whatever form or shape was desired or expedient. A change in form or shape is generally recognized as being within the level of ordinary skill in the art, absent any showing of unexpected results. *In re Dailey et al.*, 149 USPQ 47.

With respect to claim 4, McEwan teaches the back side is made of a transparent material (see column 1, lines 4-8).

With respect to claim 5, figure 4 of McEwan teaches the holder further includes at least one edge that cooperates with the back.

With respect to claim 6, figure 1 of McEwan teaches the back is adjacent an axis of a hinge 11a and the back runs parallel to the axis of the hinge

With respect to claim 7, figure 2 of McEwan teaches the assembly includes at least one lock formed by at least one groove 13 formed in a cover and at least one hook (portion underneath ledge 12a) located in the holder where the hook releasably cooperates with the groove.

With respect to claim 8, figure 2 of McEwan teaches the hook is a flexible material.

With respect to claim 9, figure 2 of McEwan teaches that the assembly includes an operation-element 12 which is connected to the hook such that using the operation-element results in flexible movement of the hook out of cooperation with the groove.

With respect to claim 10, figure 2 of McEwan teaches the operation-element is a button in the holder.

With respect to claim 11, figure 1 of McEwan teaches the button is located adjacent the hinge axis and the lock is adjacent a front side 17, and opposite the back.

With respect to claim 14 and 15, figure 1 of McEwan teaches the insert-space further includes a curved edge (circular portion data carrier rest in) for positioning the data carrier, and a supporting surface for the data carrier. McEwan does not teach the support surface slants towards the back and has an angle between 1° and 20° with reference to a bottom side of the holder. It would have been an obvious matter of design choice to modify the angle of the support surface with reference to the bottom side of the holder, since applicant has not disclosed that angle of the supporting surface with respect to the bottom solves any stated problem or is for any particular purpose and it appears that the invention would perform equally as well with the parallel supporting surface with respect to the bottom of McEwan.

With respect to claim 18, figure 4 McEwan teaches the holder will be assembled by a beam shape part (the rest of the holder) and a taco-shape part 17.

Claim Rejections - 35 USC § 102

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5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claim 19 is rejected under 35 U.S.C. 102(b) as being anticipated by McEwan (US Patent 5,906,274).

With respect to claim 19, figures 1-4 of McEwan teach a holder assembly for a data carrier comprising a cover 11 and a holder 10 with an insert-space (see figure 1) defined in between the cover and the holder and a back (side opposite surface 17) which connects the cover with the holder, where the holder includes a tight thread 20 connected to at least one hook (portion underneath ledge 12a that contacts groove 13) releasably engagable with the cover and a button 12 that rests upon the thread which when depressed releases the hook.

Response to Arguments

7. Applicant's arguments filed 23 January 2009 have been fully considered but they are not persuasive.

Applicant's argument that McEwan does not teach a holder that includes a tight thread connected to at least one hook and a button that rests upon the thread is not persuasive. In as much as applicant has claimed, the stem 20 of McEwan performs the same function as the tight thread. The stem is connected to a hook, which is the portion

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that contacts the catch portion 13 of the lid. Finally McEwan teaches a button 12 that rests upon the thread which when depressed releases the hook.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Shown are assemblies analogous to applicant's instant invention.

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOSE S. STEPHENS III whose telephone number is 571-270-3797. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571-272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/JILA M MOHANDESI/
Primary Examiner, Art Unit 3728

JSS
05/11/09